

## Message Text

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ACTION IO-10

INFO OCT-01 ISO-00 AF-06 ARA-06 EA-06 EUR-12 NEA-09 FTC-01

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DEPT PASS L-FELDMAN, EB/IFD/OIA-ELLIS

TOKYO FOR AMB. FERGUSON

E.O. 11652: N/A

TAGS: EINV, UN

SUBJECT: UN COMMISSION ON TRANSNATIONAL CORPORATIONS

1. INFORMAL DRAFTING GROUP COMPLETED WORK ON DRAFT WORK  
PROGRAM THURSDAY AFTERNOON. TEXT FOLLOWS. BRACKETS  
INDICATE NON-AGREED LANGUAGE; U.S. PREFERRED LANGUAGE MARKED  
BY ASTERISKS.

QUOTE CONCLUSIONS AND RECOMMENDATIONS OF THE COMMISSION

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THE FOLLOWING TEXT, CONTAINING CERTAIN CONCLUSIONS AND

RECOMMENDATIONS REFLECTS THE PROGRESS OF WORK BY THE COMMISSION ON THE ELABORATION OF A DETAILED PROGRAMME OF WORK AND ON ITS MODALITIES OF WORK. THE TEXTS BETWEEN BRACKETS HAVE NOT YET BEEN AGREED.

#### INTRODUCTION

PARAGRAPH 7 OF RESOLUTION 1913 (LVII) REQUESTS THE COMMISSION ON TRANSNATIONAL CORPORATIONS TO PRESENT A DETAILED PROGRAMME OF WORK CONCERNING THE WHOLE RANGE OF ISSUES RELATED TO TRANSNATIONAL CORPORATIONS TO THE ECONOMIC AND SOCIAL COUNCIL AT ITS SIXTIETH SESSION. SINCE THAT SESSION WILL TAKE PLACE IN THE SPRING OF 1976 AND THE COMMISSION ON TRANSNATIONAL CORPORATIONS MUST MEET AGAIN BEFORE THAT DATE ACCORDING TO PARAGRAPH 2 OF THE SAME RESOLUTION, A PRELIMINARY PROGRAMME OF WORK SHOULD BE ESTABLISHED AT THIS SESSION SO THAT THE INFORMATION AND RESEARCH CENTRE CAN START OPERATING AS EARLY AS POSSIBLE AND WAIT UNTIL THE NEXT SESSION OF THE COMMISSION IN EARLY 1976 TO FORMULATE IN THE LIGHT OF ACCUMULATED EXPERIENCE, THE DETAILED PROGRAMME OF WORK THAT MUST BE SUBMITTED TO THE SIXTIETH SESSION OF THE ECONOMIC AND SOCIAL COUNCIL.

THIS COMMISSION WILL BE THE FORUM WITH THE UNITED NATIONS SYSTEM FOR THE COMPREHENSIVE AND IN-DEPTH CONSIDERATION OF ISSUES RELATING TO TNCS, WITHOUT PREJUDICE TO THE WORK UNDERTAKEN WITHIN THE UNITED NATIONS SYSTEM IN RELATED FIELDS.

(BEGIN BRACKETS) UPON ADOPTION BY THE GENERAL ASSEMBLY OF RESOLUTIONS 3201 (S-VI) AND 3202 (S-VI) ON THE DECLARATION AND THE PROGRAMME OF ACTION FOR THE ESTABLISHMENT OF A NEW INTERNATIONAL ECONOMIC ORDER, IN PARTICULAR THE RELEVANT PROVISIONS ON TRANSNATIONAL CORPORATIONS, AND RESOLUTION 3281 (XXIX) ON THE CHARTER OF ECONOMIC RIGHTS AND DUTIES OF STATES, ESPECIALLY ARTICLE 2 OF CHAPTER II, FOUNDATIONS WERE LAID FOR THE WORK OF THE COMMISSION ON TRANSNATIONAL CORPORATIONS - CREATED BY THE ECONOMIC AND SOCIAL COUNCIL'S RESOLUTION 1913 (LVII) - AND FOR LIMITED OFFICIAL USE

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REGULATION AND SUPERVISION OF THE ACTIVITIES OF THESE CORPORATIONS.(END BRACKETS)

1. IDENTIFICATION OF THE AREAS OF CONCERN REGARDING THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS

(A) IF THE COMMISSION AND THE CENTRE ARE TO SERVE ALL THE INTERESTS OF THE COUNTRIES CONCERNED WITH THE FULL

RANGE OF ISSUES RELATING TO TRANSNATIONAL CORPORATIONS, AND IN PARTICULAR THE SUBJECT OF THE REGULATION OF AND SUPERVISION OVER THEIR ACTIVITIES, IT IS OF THE GREATEST IMPORTANCE THAT THE AREAS OF CONCERN REGARDING THE ACTIVITIES OF TRANSNATIONAL CORPORATIONS BE CLEARLY SPELLED OUT.

(B) THE COMMISSION DECIDED DURING ITS FIRST SESSION TO MAKE A PRELIMINARY IDENTIFICATION OF AREAS OF CONCERN, FULLY RECOGNIZING THAT THESE MIGHT REQUIRE SUBSEQUENT ADDITIONS AND REVISIONS. THESE CONCERNS OF HOST AND HOME GOVERNMENTS WILL BE FOUND IN DOCUMENTS CRP.5 AND CRP.7 ISSUES REQUIRING THE ATTENTION OF THE COMMISSION ARE IDENTIFIED ALSO IN CRP.8. THE COMMISSION INTENDS THAT THESE CONCERNS AND ISSUES SHOULD SERVE AS PRELIMINARY GUIDELINES FOR ITS WORK AND THE WORK OF THE IRC.

## 2. DRAFT PROGRAMME OF WORK

### SCOPE OF THE PROGRAMME OF WORK

I. THE PROGRAMME OF WORK OF THE COMMISSION SHOULD BE FOCUSED ON THE FOLLOWING FIVE AREAS:

(A) PRELIMINARY WORK WITH THE PURPOSE OF FORMULATING A CODE OF CONDUCT;

(B) ESTABLISHMENT OF A COMPREHENSIVE INFORMATION SYSTEM;

(C) RESEARCH ON THE POLITICAL, ECONOMIC AND SOCIAL EFFECTS OF THE OPERATIONS AND PRACTICES OF TRANSNATIONAL CORPORATIONS;

(D) ORGANIZATION AND CO-ORDINATION, AT THE REQUEST OF LIMITED OFFICIAL USE

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GOVERNMENTS OF TECHNICAL CO-OPERATION PROGRAMMES CONCERNING TRANSNATIONAL CORPORATIONS;

(E) WORK LEADING TO A DEFINITION OF A TRANSNATIONAL CORPORATIONS.

II. IN PURSUANCE OF THE INSTRUCTIONS CONVEYED BY THE ECONOMIC AND SOCIAL COUNCIL IN PARAGRAPH 7 OF RESOLUTION 1913 (LVII) THAT THE DETAILED DRAFT PROGRAMME OF WORK SHOULD INCLUDE A STATEMENT OF OUR PROPOSED PRIORITIES, THE COMMISSION HAS SELECTED SPECIFIC ACTIVITIES FOR PRIORITY ATTENTION, BEARING IN MIND THE LIMITATIONS IMPOSED BY THE BUDGET ON THE TASKS WHICH THE INFORMATION AND RESEARCH CENTRE CAN UNDERTAKE.

(BEGIN BRACKETS) AN ORDER OF PRIORITY IS ASSIGNED BELOW IN  
THE WORK OF THE COMMISSION (END BRACKETS)

3. PRELIMINARY WORK WITH THE OBJECTIVE OF FORMULATING  
A CODE OF CONDUCT

III. THE COMMISSION DECIDED THAT AMONG THE VARIOUS  
TASKS IT WILL UNDERTAKE IN THE NEXT FEW YEARS (BEGIN BRACKETS)  
THE (END BRACKETS) (BEGIN BRACKETS) A (END BRACKETS)(ASTERISK)  
PRIORITY WILL BE ASSIGNED TO THE FORMULATION OF THE CODE OF  
CONDUCT (BEGIN BRACKETS) TO BE OBSERVED BY TRANSNATIONAL  
CORPORATIONS (END BRACKETS) (BEGIN BRACKETS) DEALING WITH  
TRANSNATIONAL CORPORATIONS (END TRACKETS)(ASTERISK).

IV. AT A PRELIMINARY STAGE THE COMMISSION WILL CONCENTRATE  
ON DEFINING A SET OF FUNDAMENTAL RULES OF CONDUCT, TAKING  
INTO ACCOUNT THE PRINCIPLES CONTAINED IN DOCUMENT E/C.  
10/L.?(CRP.2) SUBMITTED BY LATIN AMERICAN AND CARRIBEAN  
COUNTRIES AT THIS SESSION, AS WELL AS OF ANY ADDITIONAL  
PROPOSALS OUTLINING PRINCIPLES RELEVANT TO THE ISSUE THAT  
MAY BE SUBMITTED IN FUTURE BY OTHER COUNTRIES.

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V. IN ORDER TO ADVANCE AS MUCH AS POSSIBLE THE WORK  
TOWARDS THIS OBJECTIVE, THE IRC MUST UNDERTAKE THE FOLLO-  
WING WORK IN THE IMMEDIATE FUTURE AND PRESENT RELATED  
REPORTS AT THE SECOND SESSION OF THE COMMISSION:

(A) A COMPARATIVE STUDY OF EXISTING INTERNATIONAL CODES  
OF CONDUCT OR GUIDELINES DRAFTED WITH THE PURPOSE OF  
INFLUENCING AND/OR REGULATING THE OPERATIONS AND PRACTICES  
OF TRANSNATIONAL CORPORATIONS, INCLUDING THE STUDY OF  
RELEVANT MATERIALS UNDERLYING SUCH CODES;

(B) A COMPARATIVE STUDY OF EXISTING NATIONAL AND REGIONAL  
LEGISLATION AND REGULATIONS ENACTED WITH THE PURPOSE OF  
REGULATING THE OPERATIONS AND ACTIVITIES OF TRANSNATIONAL  
CORPORATIONS;

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(C) SUGGESTIONS AS TO POSSIBLE METHODS OF INTERSESS-  
IONAL WORK BY THE COMMISSION WHICH WOULD FURTHER THE  
TASK OF DRAFTING A CODE OF CONDUCT;

(BEGIN BRACKETS) (D) COLLECTION AND ANALYSIS OF MATERIAL  
RELEVANT TO THE FORMULATION OF A CODE OF CONDUCT. (END  
BRACKETS)

4. ESTABLISHMENT OF A COMPREHENSIVE INFORMATION SYSTEM

VI. THE ESTABLISHMENT OF A COMPREHENSIVE INFORMATION  
SYSTEM MUST HAVE THE FOLLOWING OBJECTIVES:

(A) TO FURTHER UNDERSTANDING OF THE NATURE AND THE  
POLITICAL, ECONOMIC AND SOCIAL EFFECTS OF THE ACTIVITIES  
OF TRANSNATIONAL CORPORATIONS IN HOME COUNTRIES, HOST  
COUNTRIES AND INTERNATIONAL RELATIONS, PARTICULARLY  
BETWEEN DEVELOPED AND DEVELOPING NATIONS;

(B) TO STRENGTHEN THE CAPACITY OF HOST COUNTRIES, IN  
PARTICULAR OF DEVELOPING COUNTRIES, IN THEIR DEALINGS WITH  
TRANSNATIONAL CORPORATIONS;

(C) TO COLLECT AND ANALYZE MATERIAL RELATING TO THE  
(BEGIN BRACKETS) EVOLUTION AND DEVELOPMENT (END BRACKETS)(AS-  
TERISK) (BEGIN BRACKETS) FORMULATION (END BRACKETS) OF A

CODE OF CONDUCT.

VII. CONSIDERING THAT THERE IS A VAST AMOUNT OF INFORMATION AVAILABLE IN GOVERNMENTS, ACADEMIC CENTRES, BUSINESS COUNCILS, AND INTERNATIONAL ORGANIZATIONS REGARDING TRANSNATIONAL CORPORATIONS AND THEIR ACTIVITIES, A HIGH PRIORITY TASK TO BE UNDERTAKEN BY THE IRC WOULD BE A SURVEY BY MEANS OF A QUESTIONNAIRE AND OTHER METHODS TO DETERMINE WHAT INFORMATION ON TRANSNATIONAL CORPORATIONS IS AVAILABLE, AND WHERE, THROUGHOUT THE WORLD. THE SURVEY WOULD PERMIT IDENTIFICATION OF SOURCES OF INFORMATION AT THE NATIONAL AND INTERNATIONAL LEVEL, BE THEY GOVERNMENTAL, PRIVATE OR ACADEMIC ORGANIZATIONS; THE PERIODICITY ON WHICH THIS INFORMATION IS COLLECTED AND LIMITED OFFICIAL USE

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PUBLISHED; THE LEVEL OF AGGREGATION OF STATISTICAL DATA AVAILABLE; INFORMATION DISCLOSURE REQUIREMENTS; EXPERIENCE OF OTHER INTERNATIONAL ORGANIZATIONS IN THE COLLECTION OF INFORMATION CONCERNING THE NATURE AND ACTIVITIES OF TRANSNATIONAL CORPORATIONS.

VIII. WORK FOR THIS STUDY SHOULD BE STARTED AS SOON AS THE IRC OBTAINS THE NECESSARY TECHNICAL STAFF, SO THAT AT THE SECOND SESSION OF THE COMMISSION A PRELIMINARY REPORT ON THE SUBJECT COULD BE EXAMINED BY ITS MEMBERS. ON THE BASIS OF THE RESULTS OF THIS SURVEY, THE IRC SHOULD BE ABLE TO POINT OUT GAPS AND PROBLEMS REGARDING THE AVAILABILITY, DISCLOSURE, ANALYSIS AND DISSEMINATION OF INFORMATION, SO THAT IN THE NEXT SESSION, MEMBER COUNTRIES OF THE COMMISSION COULD DECIDE ON PRIORITY AREAS FOR THE COLLECTION OF INFORMATION IN ACCORDANCE WITH SPECIFIC AREAS OF CONCERN.

IX.. THE IRC SHOULD NOT NECESSARILY WAIT UNTIL THE SURVEY IS READY TO START COLLECTING INFORMATION. THEREFORE IN ITS FIRST YEARS OF OPERATION, THE IRC SHOULD START MAKING EFFORTS IN TWO DIRECTIONS:

(A) DEVELOPMENT OF A CLASSIFICATION SYSTEM OF INFORMATION RELEVANT TO CONCERNS OF MEMBER COUNTRIES, IN PARTICULAR BUT NOT LIMITED TO THOSE OF THE DEVELOPING COUNTRIES;

(B) COLLECTION OF INFORMATION OF A GENERAL OR SPECIFIC NATURE AT THE AGGREGATE AND ENTERPRISE LEVELS ON THE FOLLOWING PRIORITY AREAS, WHERE INFORMATION GAPS ARE MOST PRESSING:

1. TRANSFER PRICING AND TAXATION

2. SHORT-TERM CAPITAL MOVEMENTS BY TRANSNATIONAL CORPORATIONS.

3. RESTRICTIVE BUSINESS PRACTICES (OTHER THAN THOSE ALREADY COVERED BY UNCTAD)

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4. CORPORATE OWNERSHIP AND ALTERNATIVE FORMS OF BUSINESS PARTICIPATION

5. MARKET CONCENTRATION (GIVING SPECIAL CONSIDERATION TO ACQUISITION OF PARTICIPATION AND MERGER)

6. RELATIVE USE BY TRANSNATIONAL CORPORATIONS OF HOME, INTERNATIONAL AND HOST COUNTRY'S FINANCIAL MARKETS IN THEIR OPERATIONS AND INVESTMENTS

7. ALTERNATIVE FORMS OF MANAGEMENT AND CONTROL

8. POLITICAL ACTIVITIES OF TRANSNATIONAL CORPORATIONS

9. SOCIAL IMPACT OF TRANSNATIONAL CORPORATIONS

10. IMPACT OF TRANSNATIONAL CORPORATIONS ON FREEDOM OF LABOUR ORGANIZATIONS, TRADE UNION RIGHTS, LABOUR STANDARDS AND WORKING CONDITIONS.

THE INFORMATION SHOULD BE OBTAINED IN THE FIRST INSTANCE FROM RELEVANT BODIES OF THE UNITED NATIONS SYSTEM.

WHEREVER THE UNITED NATIONS SYSTEM AS SUCH IS NOT ITSELF COLLECTING ANY OF THE INFORMATION, THE INFORMATION AND RESEARCH CENTRE SHOULD COLLECT IT DIRECTLY FROM THE APPROPRIATE SOURCES.

5. STUDIES ON THE POLITICAL, ECONOMIC AND SOCIAL EFFECTS OF THE OPERATIONS AND PRACTICES OF TRANSNATIONAL CORPORATIONS

X. THE COMMISSION SHOULD UNDERTAKE STUDIES CONCERNING SPECIFIC SUBJECTS THAT REQUIRE ANALYSIS, IN THE LIGHT OF THE REPORT WHICH THE CENTRE WILL PRESENT IN 1976 TO THE COMMISSION ON AVAILABLE INFORMATION AND ON THE LIGHT OF THE STATE OF RESEARCH ON TRANSNATIONAL CORPORATIONS BY PUBLIC, PRIVATE AND ACADEMIC RESEARCH INSTITUTIONS THROUGHOUT THE WORLD.

XI. WITH A VIEW TO FACILITATING THE AGGREGATION AND

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COMPARISON OF FINANCIAL DATA RELATING TO THE OPERATIONS  
OF TRANSNATIONAL CORPORATIONS THE IRC SHOULD ESTABLISH  
AN EXPERT GROUP OF PROFESSIONAL ACCOUNTANTS, AUDITORS  
AND FINANCIAL MANAGERS TO EXPLORE THE POSSIBILITY OF  
WORKING OUT STANDARD FORMS FOR THE PRESENTATIONS OF THE  
FINANCIAL RELATIONS BETWEEN TRANSNATIONAL CORPORATIONS  
AND THE ASSOCIATED ENTERPRISES.

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XII. IN ORDER TO DETERMINE WHAT IS THE PRESENT STATE  
OF RESEARCH ON THOSE AREAS OF CONCERN REGARDING THE



ACTIVITIES OF TRANSNATIONAL CORPORATIONS, A SIMULTANEOUS SURVEY TO THAT IN THE FIELD OF INFORMATION, AS MENTIONED IN PARAGRAPH VII ABOVE, SHOULD BE UNDERTAKEN AND COMPLETED IN THE NEAR FUTURE. SUCH A SURVEY SHOULD ATTEMPT TO ESTABLISH WHAT SIGNIFICANT RESEARCH ON TRANSNATIONAL CORPORATIONS HAS BEEN UNDERTAKEN IN RECENT YEARS RELATED WITH THE AREAS OF CONCERN, WHAT RESEARCH IS UNDER WAY AT PRESENT, AND WHETHER THE INFORMATION IS COMPLETE AND COMPREHENSIVE. A PRELIMINARY REPORT SHOULD BE PRESENTED AT THE SECOND SESSION OF THE COMMISSION NEXT YEAR.

XIII. MEANWHILE THE IRC SHOULD CONCENTRATE ON RESEARCH LIMITED OFFICIAL USE

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ON THE FOLLOWING AREAS:

(A) STUDIES ON THE ROLE AND EFFECTS OF TRANSNATIONAL CORPORATIONS IN SECTORS OF ECONOMIC ACTIVITY THAT SO FAR HAVE BEEN INSUFFICIENTLY COVERED BY RESEARCH PROJECTS, SUCH AS IS THE CASE OF AGRICULTURAL, EXTRACTIVE, LAND DEVELOPMENT, SHIPPING, TRADE, BANKING, INSURANCE AND TOURISM ACTIVITIES;

(B) OBSTACLES TO THE INCREASE OF THE BARGAINING POWER OF GOVERNMENTS IN THEIR RELATIONS WITH TRANSNATIONAL CORPORATIONS;

(C) LESSONS TO BE OBTAINED FROM NATIONAL AND REGIONAL LEGISLATIONS, MECHANISMS AND ARRANGEMENTS, THAT HAVE PERMITTED THE (BEGIN BRACKETS) INCREASE (END BRACKETS) (BEGIN BRACKETS) IMPROVEMENT (END BRACKETS) OF BARGAINING POWER OF GOVERNMENTS IN THEIR RELATIONS WITH TRANSNATIONAL CORPORATIONS;

(D) A STUDY OF THE MEASURES WHICH HAVE BEEN ADOPTED BY HOST COUNTRIES TO STRENGTHEN THE COMPETITIVE POSITION OF NATIONAL ENTERPRISES VIS-A-VIS TRANSNATIONAL CORPORATIONS;

(E) STUDIES DESCRIBED IN PARAGRAPH 3-V TO SUPPORT THE WORK DIRECTED TOWARDS THE FORMULATION OF A CODE OF CONDUCT FOR TRANSNATIONAL CORPORATIONS;

(F) STUDIES OF THE POLITICAL AND SOCIAL IMPACT OF THE OPERATIONS AND ACTIVITIES OF THE TRANSNATIONAL CORPORATIONS.

6. TECHNICAL CO-OPERATION

XIV. THE COMMISSION DECIDED TO ENDORSE THE GENERAL APPROACH TO THE PROGRAMME OF TECHNICAL CO-OPERATION AS DESCRIBED IN PARAGRAPHS 30-49 OF E/C.10/2 SHOULD BE SUPPORTED (SIC). HOWEVER A MORE DETAILED PROGRAMME WILL HAVE TO BE FORMULATED IN THE LIGHT OF THE AFOREMENTIONED AREAS OF CONCERN AND OF THE SPECIFIC REQUIREMENTS OF DEVELOPING LIMITED OFFICIAL USE

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COUNTRIES.

EACH COUNTRY CONCERNED WITH THE OPERATIONS AND PRACTICES OF TNC'S SHOULD INFORM THE IRC BEFORE THE END OF 1975, WHAT ARE ITS BASIC REQUIREMENTS OF TECHNICAL ASSISTANCE BOTH IN THE FIELDS OF MANPOWER TRAINING AND CONSULTANCY SERVICES, SO THAT THE CENTRE COULD PREPARE A PROPOSAL FOR THE NEXT SESSION OF THE COMMISSION, TAKING INTO CONSIDERATION THE OVER-ALL REQUIREMENTS OF TECHNICAL ASSISTANCE AND THE AVAILABILITY OF FUNDS AND SPECIALIZED (BEGIN BRACKETS) STAFF (END BRACKETS) RESOURCES FROM THE UNITED NATIONS SYSTEM. THE ULTIMATE RESPONSIBILITY FOR THE TECHNICAL CO-OPERATION PROGRAMME SHOULD LIE WITH THE CENTRE.

#### 7. DEFINITION OF TRANSNATIONAL CORPORATIONS

XV. THE CENTRE WILL ENDEAVOUR TO COLLECT AVAILABLE DEFINITIONS ON TNC'S AND BACKGROUND WORK THAT HAS BEEN DONE BY OECD, OTHER INTERNATIONAL ORGANIZATIONS AND SOME WELL-KNOWN ACADEMIC CENTRES THROUGHOUT THE WORLD.

XVI. WHILE SUCH WORK IS COLLECTED, THE IRC SHOULD CONCENTRATE IN IDENTIFYING THE COMMON CHARACTERISTICS OF THE LEADING TRANSNATIONAL CORPORATIONS IN THE WORLD THAT PLAY A MAJOR ROLE IN THE INTERNATIONALIZATION OF THE WORLD ECONOMY.

(BEGIN BRACKETS) SUCH STUDY SHOULD COVER AT LEAST 5 LEADING TRANSNATIONAL CORPORATIONS IN EACH SECTOR OF THE INDUSTRIAL CLASSIFICATION SYSTEM (END BRACKETS)  
END QUOTE.

2. WE ARE HOPEFUL RESOLUTION OF DIFFERENCES OF VIEW EXPRESSED IN BRACKETS, IF NOT RECONCILED IN THIS SESSION, WILL BE POSTPONED TO NEXT SESSION OF COMMISSION. WE WANT TO AVOID BRINGING WORK PROGRAM STATEMENT IN WHOLE OR IN PART TO VOTE AND BELIEVE G-77 SEES SOME DIS-ADVANTAGES TO CONFRONTATION TO WHICH VOTING WOULD LEAD.

3. WORK PROGRAM WILL BE FINALIZED IN PLENARY MEETINGS  
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TONIGHT AND TOMORROW AS PART OF COMMISSION'S REPORT AND  
ANY COMMENTS ON IT WOULD HAVE TO BE RECEIVED BY NOON  
FRIDAY AT THE LATEST.  
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## Message Attributes

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